IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10873 of 1995

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GANGADAS TEJABHAI DODIA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 10873 of 1995

MR ANSHIN H DESAI for Petitioner No. 1

..... for Petitioner No. 2

M/S PATEL ADVOCATES for Respondent No. 1

TANNA ASSOCIATES for Respondent No. 2

NOTICE SERVED BY DS for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 12/01/2005

ORAL JUDGEMENT

#. In this petition filed under Article 226 of the Constitution of India, the petitioner has prayed for appropriate writ, order and direction directing the respondents to vary Town Planning Scheme No.7, Rajkot qua the land of the petitioner under Section 70 of the Gujarat Town Planning & Urban Development Act, 1976 ("the Act" for short). It is also further prayed for a direction directing respondent No.2 to allot analogous land as per annexure-B to the petitioner in view of the reduction in the area of the original plot No.1 / Part and/or to allot appropriate final plot at any other place within the scheme area.

#. It appears from the record that during the pendency of the present petition, part of the building of the petitioner is already demolished due to finalisation of the Town Planning Scheme, therefore, question with regard to now directing the respondents to vary the Town Planning Scheme No.7, Rajkot qua the land of the petitioner under Section 70 of the Act would not survive and no relief can be granted now at this stage. So far as allotment of alternative another land in lieu of the land gone in the Town Planning Scheme is concerned, Mr.Desai, learned advocate appearing on behalf of the petitioner, has submitted that, in fact, in pursuance of the order passed by this Court dated 9.5.1996, the petitioner has already made appropriate representation and in fact, earlier the petitioner was called also and the petitioner was directed to fill in certain forms which the petitioner had filled in, however, there is no further decision taken by the respondents. Mr.Desai has submitted that still the petitioner would make additional representation to the respondents for allotment of either alternative land and/or for allotting adjacent land to the petitioner on some reasonable price looking to the facts and circumstances of the case.

#. Considering the earlier order passed by this Court and in view of the fact that the representation made by the petitioner in pursuance of the order passed by this Court dated 9.5.1996 is pending, the respondents are directed to take appropriate decision on its own merits and in accordance with law sympathetically considering the facts and circumstances of the case. It will be open for the petitioner to make additional representation also which also may be considered. The respondents are directed to take appropriate decision as early as possible preferably within a period of four months from the date of receipt of the writ of this order.

#. With these observations and directions, the present special civil application is disposed of. Rule is discharged. No costs.

(M.R.Shah,J)

(pathan)